federal register

WEDNESDAY, FEBRUARY 20, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 35

PART III

ENVIRONMENTAL PROTECTION AGENCY

■

CEMENT MANUFACTURING POINT SOURCE CATEGORY

Effluent Guidelines and Standards

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 411—CEMENT MANUFACTURING POINT SOURCE CATEGORY

Effluent Limitations Guidelines

On September 7, 1973, notice was published in the FEDERAL REGISTER (38 FR 24462), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the nonleaching and leaching subcategories of the cement manufacturing category of point sources.

The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the cement manufacturing category of point sources, by amending 40 CFR Chapter I, Subchapter N, to add a new Part 411. This final rulemaking is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500. Regulations regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR Part 402.

In addition, the EPA is simultaneously proposing a separate provision which appears in the proposed rules section of the FEDERAL REGISTER, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the nonleaching subcategory and leaching subcategory. In addition, the regulations as proposed were supported by two other documents: (1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Cement Manufacturing Point Source Category" (August 1973) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, Cement Industry" (August 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows.

The regulation as promulgated contains minor but significant departures from the proposed regulation. The following discussion outlines the reasons why these changes were made and why other suggested changes were not made.

(a) Summary of comments.

The following responded to the request for written comments contained in the preamble to the proposed regulation: Illinois Environmental Protection Agency; Ideal Cement Company; General Portland, Inc.; Portland Cement Association; Lehigh Portland Cement; Martin Marrietta; Department of Commerce—General Counsel; National Gypsum Company—Huron Division; Missouri Portland Cement Company; Mead Corporation and the Department of the Interior.

Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and the Agency's response to those comments.

(1) The Illinois Environmental Protection Agency inquired about the omission of total dissolved solids limitation for best practicable control technology current available.

The Agency has established limitations which require dissolved solids removal and recycling of waste waters from leaching process streams for best available technology economically achievable. This technology, described in the Development Document, involves the use of electrodialysis of high pH streams to remove salts. Although the technology has been used in the glass industry in Japan, the application of the technology to leaching process streams will require some development by industry and will involve some technical and economic risk but should be achievable by 1983.

(2) Several comments were received relating to the temperature limitation of 3°C and the effect of the thermal discharge on water quality. An analysis of the data received by the Agency and presented in the Development Document shows that almost 50 percent of some 123 plants in the industry, for which definitive thermal data were available, are currently achieving the temperature limitation.

(3) A number of organizations within industry submitted data to support their recommendations that the water to dust ratio used in leaching plants, upon which basis the Agency determined the TSS limitation, should be reexamined. The industry data, together with the previously submitted data and raw data obtained during the field portion of the project, were reexamined and the water to dust ratio and TSS limitations recalculated. The Development Document and the regulation have been changed to reflect a higher dust to water ratio and TSS limitation for the leaching subcategory.

(4) Three of the organizations commented that they felt that the proposed regulations were based on questionable test data and unwarranted assumptions because of the small amount of testing done by the Agency's contractor and because of the use of RAPP data and industry questionnaires.

The Development Document outlines the basis for the guidelines development. The Agency sought and obtained process and waste water data from many sources which included the Portland Cement Association and individual companies operating plants in the cement industry. The data was analyzed and evaluated by the contractor and the Agency. Prior to the field verification test portion of the project, technical representatives from the industry and the Portland Cement Association were consulted and confirmed that the data possessed by the Agency was representative of the industry and reflected the current technology and operating methods of the industry. The validity of the data and assumptions were further confirmed by field testing at selected cement plants representative of the processes used, geographical location, kiln dust control systems used, age, capacity, water and waste water management practices and other factors as outlined in the Development Document. On the basis of the approach and methodology used to develop the guidelines for the cement industry, the Agency believes that the limitations presented in this regulation realistically reflect the best practicable technology currently available or the best available technology economically achievable.

(5) Two comments were made that the "typical plant" model used for costing treatment alternatives was not representative of any one specific plant in the industry.

The Agency did not intend that the "typical plant" represent any specific plants but rather used the "typical plant" cost estimates upon which to determine an estimate of the total industry costs. The "typical plant" cost data represents a basis from which an individual plant can estimate its costs (upward or downward) to adjust for the plant's operating methods and requirements.

(6) The majority of comments from industry recommended that the Agency clarify what constitutes runoff control from materials storage piles.

Although the proposed regulation indicated that complete retention of runoff from kiln dust piles was required, it is the Agency's intention, as stated in the Development Document, that the runoff from coal, kiln dust and other materials storage piles should be either completely contained or treated to neutralize and control suspended solids prior to discharge to navigable waters through the use of the best practicable control technology currently available. The regulation has been changed (Subpart C) to clarify the Agency's intent.

(7) Several comments indicated that the proposed limitations are inconsistent with those used in the NPDES.

The Agency is aware that some inconsistencies exist, and intends in the future to apply the limitations promulgated in this regulation, rather than those currently used in the NPDES.

(8) Two organizations recommended that the Agency consider subcategorization of the industry based on wet and dry processing and on high and low alkali cement manufacturing raw materials. The Agency did consider the factors of wet and dry processing as part of the subcategorization definition process. As the Development Document indicates, the waste water characteristics from wet and dry process plants are similar enough so as to not warrant separate subcategorization. In addition, the raw materials that are available to some plants, especially limestone and clay, may contain higher-than-average amounts of potassium and sodium. These differences will be reflected in the waste water streams only at leaching plants where the kiln dust comes in contact with the waste stream. Plants where such contact is purposeful rather than incidental have already been considered as a separate subcategory. Thus, the type of raw material is considered with respect to its influence on dust handling techniques, and as such is covered in the two selected subcategories.

(9) One company commented that no provisions were made for upset conditions.

The Agency has identified potential upsets in runoff control as a result of excessive rainfall and has provided for discharges from runoff where the rainfall exceeds the capacity of a facility designed to treat the runoff resulting from a 10 year, 24 hour rainfall event.

(10) The Department of the Interior expressed concern over the failure to evaluate the trend toward the use of short, dry process kilns in the industry.

The Agency believes that the trend in the use of short, dry process kilns should have no influence on the characteristics of the raw waste water from cement plants which would affect the subcategorization or limitations established for the industry.

(11) Several commenters inquired about whether the TSS limitation is a net or gross value depending upon the TSS of the intake water sources. The Agency intends for the TSS limitation to be an absolute value.

(b) Revision of the proposed regulation prior to promulgation.

As a result of public comments and continuing review and evaluation of the proposed regulation by the EPA, the following changes have been made in the regulation.

(1) The TSS Effluent Limitations for Subpart B—Leaching Subcategory § 411.22 and § 411.24 have been increased to 0.4 kg/kkg of dust leached (0.4 lb/1000 lb of dust leached). This change results from an evaluation of data submitted by industry and a reexamination of the raw data on leaching plants collected by the Agency's contractor and a recalculation of the dust/water ratio.

(2) Subpart C has been added to the regulation to provide for the discharge to navigable waters of storage pile runoff as an alternative to complete containment. This subpart requires that any storage pile runoff discharged to navigable water must be neutralized to a pH within the range of 6.0 to 9.0 and have a suspended solids concentration of no greater than 50 mg/1. These levels of pH and sedimentation control are readily achievable, even under adverse climatic conditions, through the application of currently available neutralization and sedimentation technology.

(3) Section 304(b)(1)(B) of the Act provides for "guidelines" to implement the uniform national standards of Section 301(b)(1)(A). Thus Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with respect to the practicability of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control technology, it was concluded that some provision was needed to authorize flexibility in the strict application of the limitations contained in the regulation where required by special circumstances applicable to individual dischargers. Accordingly, a provision allowing flexibility in the application of the limitations representing best practicable control technology currently available has been added to each subpart, to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(c) Economic impact.

The above listed changes will not significantly affect the conclusions of the economic study of the proposed regulations. The adjustment of the TSS effluent limitations for the leaching subcategory should not affect the cost of the treatment alternatives described in the Development Document and the proposed regulation. The effect of allowing a discharge from materials storage piles runoff as an alternative to total containment should slightly reduce the economic internal costs for existing plants within the industry.

(d) Cost-benefit analysis.

The detrimental effects of the constituents of waste waters now discharged by point sources within the cement manufacturing point source category are discussed in section VI of the report entitled "Development Document for Effluent Limitations Guidelines for the Cement Manufacturing Point Source Category" (January 1974). It is not feasible to quantify in economic terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines, CEMENT INDUSTRY" (September 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the cement industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) Publication of information on processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants.

In conformance with the requirements of Section 304(c), a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Cement Manufacturing Point Source Category," has been published and is available for purchase from the Government Printing Office, Washington, D.C. 20401 for a nominal fee.

(f) Final rulemaking.

In consideration of the foregoing, 40 CFR Chapter I, Subchapter N is hereby amended by adding a new Part 411, Cement Manufacturing Point Source Category, to read as set forth below. This final regulation is promulgated as set forth below and shall be effective April 22, 1974.

Dated: January 31, 1974.

JOHN QUARLES,
Acting Administrator.

PART 411—CEMENT MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Nonleaching Subcategory

Sec.
411.10 Applicability; description of the nonleaching subcategory.
411.11 Specialized definitions.
411.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
422.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
411.14 Reserved.
411.15 Standards of performance for new sources.
411.16 Pretreatment standards for new sources.

Subpart B—Leaching Subcategory

Sec.
411.20 Applicability; description of the leaching subcategory.

411.21 Specialized definitions.
411.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
411.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
411.24 Reserved.
411.25 Standards of performance for new sources.
411.26 Pretreatment standards for new sources.

Subpart C—Materials Storage Piles Runoff Subcategory

Sec.
411.30 Applicability; description of the materials storage pile runoff subcategory.
411.31 Specialized degfinitions.
411.31 Specialized definitions.
411.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
411.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
411.34 Reserved.
411.35 Standards of performance for new sources.
411.36 Pretreatment standards for new sources.

Subpart A—Nonleaching Subcategory

§ 411.10 Applicability; description of the nonleaching subcategory.

The provisions of this subpart are applicable to discharges resulting from the process in which several mineral ingredients (limestone or other natural sources of calcium carbonate, silica, alumina, and iron together with gypsum) are used in the manufacturing of cement and in which kiln dust is not contracted with water as an integral part of the process and water is not used in wet scrubbers to control kiln stack emissions.

§ 411.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 411.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent chagacteristic	Effluent limitations (maximum for any 1 day)
	Metric units, (kg/kkg of product)
TSS	0.005
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.
	English units (lb/1,000 lb of product)
TSS	0.005
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.

§ 411.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations (maximum for any 1 day)
	Metric units (kg/kkg of product)
TSS	0.005
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.
	English units (lb/1,000 lb of product)
TSS	0.005
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.

§ 411.14 Reserved.

§ 411.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations (maximum for any 1 day)
	Metric units (kg/kkg of product)
TSS	0.005
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.
	English units (lb/1,000 lb of product)
TSS	0.005
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.

§ 411.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the nonleaching subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, § 128.133 of this title shall be amended to read as follows:

"In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 411.15; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

Subpart B—Leaching Subcategory

§ 411.20 Applicability; description of the leaching subcategory.

The provisions of this subpart are applicable to discharges resulting from the

process in which several mineral ingredients (limestone or other natural sources of calcium carbonate, silica, aluminia, and iron together with gypsum) are used in the manufacturing of cement and in which kiln dust is contacted with water as an integral part of the process or water is used in wet scrubbers to control kiln stack emissions.

§ 411.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 411.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations (maximum for any 1 day)
	Metric units (kg/kkg of dust leached)
TSS	0.4
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.
	English units (lb/1,000 lb of dust leached)
TSS	0.4
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.

§ 411.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations (maximum for any 1 day)
	Metric units (kg/kkg of product)
TSS	0.005
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.
	English units (lb/1,000 lb of product)
TSS	0.005
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.

§ 411.24 Reserved.

§ 411.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations (maximum for any 1 day)
	Metric units (kg/kkg of dust leached)
TSS	0.4
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.
	English units (lb/1,000 lb of dust leached)
TSS	0.4
Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
pH	Within the range 6.0 to 9.0.

§ 411.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the leaching subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, § 128.133 of this title shall be amended to read as follows:

"In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 411.25; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

Subpart C—Materials Storage Piles Runoff Subcategory

§ 411.30 Applicability; description of the materials storage piles runoff subcategory.

The provisions of this subpart are applicable to discharges resulting from the runoff of rainfall which derives from the storage of materials, including raw materials, intermediate products, finished products and waste materials which are used in or derived from the manufacture of cement under either subcategory—A or subcategory—B.

§ 411.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "10 year, 24 hour rainfall event" shall mean a rainfall event with a probable recurrence interval of once in ten years as defined by the National Weather Service in Technical Paper No. 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.

§ 411.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual

discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for the facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of subparagraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	*Effluent limitations*
TSS	Not to exceed 50 mg.l.
pH	Within the range 6.0 to 9.0.

(b) Any untreated overflow from facilities designed constructed and operated to treat the volume of runoff from materials storage piles which is associated with a 10 year, 24 hour rainfall event shall not be subject to the pH and TSS limitations stipulated in subparagraph (a), above.

§ 411.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of subparagraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	*Effluent limitations*
TSS	Not to exceed 50 mg.l.
pH	Within the range 6.0 to 9.0.

(b) Any untreated overflow from facilities designed constructed and operated to treat the volume of runoff from materials storage piles which results from a 10 year, 24 hour rainfall event shall not be subject to the pH and TSS limitations stipulated in subparagraph (a), above.

§ 411.34 Reserved.

§ 411.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 411.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the materials storage piles runoff subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, § 128.133 of this title shall be amended to read as follows:

"In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 411.35; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

[FR Doc.74-3494 Filed 2-19-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 411]

APPLICATION OF EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES TO PRETREATMENT STANDARDS FOR INCOMPATIBLE POLLUTANTS FOR THE CEMENT MANUFACTURING POINT SOURCE CATEGORY

Notice of Proposed Rulemaking

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act) 33 U.S.C. 1251, 1311, 1314 and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92–500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 411—Cement Manufacturing Point Source Category, establishing for each subcategory therein the exent of applications of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR Part 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the nonleaching, leaching, and materials storage piles runoff subcategories of the cement manufacturing point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR Part 411) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants.) Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

"In addition to the prohibitions set forth in Section 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by the promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to Sections 301(b) and 304(b) of the Act; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant; and provided further that when the effluent limitations guidelines for each industry are promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment."

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Sections 411.15 and 411.25 of the proposed regulation for point sources within the nonleaching and leaching subcategories (September 7, 1973; 38 FR 24462), contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains §§ 411.16, 411.26 and 411.36 which states the applicability of standards of performance for purposes of pretreatment standard for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final Development Document is now being published. The economic analysis report was made available at the time of proposal. Copies of the final Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia, 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public. (38 FR 15653) The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of these materials, the material may be made available in an alternate format.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from the manufacture of cement, the characteristics of these pollutants, and the degree of pollutant reduction attainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment (including air, subsurface waters, solid waste disposal and land use, and noise) of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of cement. The two reports exceed, in the aggregate, 100 pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the cement point source category (38 FR 24462;

September 7, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 411) which currently is being published in the rules and regulations section of the FEDERAL REGISTER.

The options available to the Agency in establishing the level of pollutant reduction attainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal system by existing sources in the nonleaching, leaching and materials storage piles runoff subcategories the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) Differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

As described in the Development Document the process waste waters from the nonleaching, leaching and materials storage piles runoff subcategories may contain suspended solids, pH and heat. Accordingly, it is the opinion of the EPA that because suspended solids and pH are recognized as compatible pollutants, the first option is appropriate and the guidelines should not apply to process waste waters from plants in the nonleaching, leaching and materials storage piles runoff subcategories discharging to publicly owned treatment works. Similarly, the thermal component of the effluent from either the nonleaching or leaching subcategories will be adequately diffused in a treatment works of suitable capacity and discharge of this pollutant without pretreatment should be allowed.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which is available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data is essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304, and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR Part 411 be amended to add §§ 411.14, 411.24, and 411.34 as set forth below. All comments received on or before March 22, 1974 will be considered.

Dated: January 31, 1974.

JOHN QUARLES,
Acting Administrator.

Part 411 is proposed to be amended as follows:

* * * * *

Subpart A is amended by adding § 411.14 as follows:

§ 411.14 Pretreatment Standards for Existing Sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 411.12 above shall not apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

* * * * *

Subpart B is amended by adding § 411.24 as follows:

§ 411.24 Pretreatment Standards for Existing Sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 123.133, the effluent limitations guidelines set forth in 40 CFR 411.22 above shall not apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

* * * * *

Subpart C is amended by adding § 411.34 as follows:

§ 411.34 Pretreatment Standards for Existing Sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 411.32 above shall not apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

* * * * *

[FR Doc.74-3495 Filed 2-19-74;8:45 am]

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of October 1, 1973)

Title 47—Telecommunication (Part 80–End)---------- $4.55

Title 49—Transportation (Parts 100–199)---------- 5.60

[A Cumulative checklist of CFR issuances for 1973 appears in the first issue of the Federal Register each month under Title 1]

**Order from Superintendent of Documents,
United States Government Printing Office,
Washington, D.C. 20402**